



PATENT
1438-5002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Nadine F. BURTON et al.) Confirmation No.: 8062
Application No.: 10/712,265) Group Art Unit: 3761
Filed: November 14, 2003) Examiner: Laura C. Hill
For: MEDICAL VACUUM)
ASPIRATION DEVICE)

Commissioner for Patents
Mail Stop: AF
Alexandria, VA 22314

Sir:

**NOTICE OF APPEAL TO THE BOARD OF
PATENT APPEALS AND INTERFERENCES**

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the Office Action dated June 29, 2006, twice rejecting claims 1-28.

1. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time.

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37 7388402 360 33 39

68/24/8226 8D7E9201 83222117 522318 15712255

21-50-0404

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DETROIT, MICHIGAN - 48226

Applicants request an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

| Total Months <u>Requested</u> | Fee for <u>Extension</u> | [Fee for Small Entity] |
|---------------------------------------|-----------------------------|---------------------------|
| <input type="checkbox"/> one month | \$ 120.00 | \$ 60.00 |
| <input type="checkbox"/> two months | \$ 450.00 | \$ 225.00 |
| <input type="checkbox"/> three months | \$ 1,020.00 | \$ 510.00 |
| <input type="checkbox"/> four months | \$ 1,590.00 | \$ 795.00 |

Please charge Deposit Account No. 50-0310 in the amount of \$0.00 for two-month extension of time fee.

If an additional extension of time is required, please consider this a Petition therefor.

2. Notice of Appeal Fee - 37 C.F.R. § 41.20(b)(1)

The Commissioner is authorized to charge the appeal fee of \$500.00 to Deposit Account No. 50-0310.

3. Fee Payment

The Commissioner is authorized to charge Deposit Account No. 50-0310 in the amount of \$500.00 for the Notice of Appeal fee.

4. Constructive Petition

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. 1.136(a)(3).

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

Dated: September 20, 2006

By:


John D. Zele
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